

JANUARY 9, 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

08 C 193

ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor,

Petitioner,

v.

JAMES LOUGHREY, CUSTODIAN OF
RECORDS AND TRUSTEE OF LOMA
SERVICES, INC. SIMPLE IRA PLAN,

Respondent.

CIVIL ACTION
File No.

JUDGE GUZMAN
MAGISTRATE JUDGE KEYS

DECLARATION OF ANIELA JANACHOWSKI IN SUPPORT OF
REQUEST FOR ORDER TO SHOW CAUSE WHY RESPONDENT HAS
FAILED TO COMPLY WITH THE SUBPOENA DUCES TECUM

I, Aniela Janachowski, declare and state as follows:

1. I am, and at all times hereinafter mentioned, an investigator with the Chicago Regional Office for the Employee Benefits Administration, United States Department of Labor ("EBSA"), assigned to investigate the Loma Services, Inc. Simple IRA Plan (the "Plan").

2. On April 12, 2007, a Subpoena Duces Tecum was mailed, via certified mail, Mr. James Loughrey, Custodian of Records and Trustee for the Loma Services SIMPLE IRA Plan.

3. Initially, a previous Subpoena Duces Tecum was issued on October 3, 2005, via Federal Express, with a production date of December 5, 2005.

4. On December 6, 2005, Mr. Loughrey's attorney, Thomas Lynch, contacted EBSA and informed EBSA that the records requested were kept in various locations and his client was in the process of obtaining the records.

5. On December 1, 2006, a meeting was held with Mr. Lynch in which EBSA was informed that the requested documents would be produced.

6. A meeting between EBSA and Mr. Lynch was scheduled for February 8, 2007 and later rescheduled for February 22, 2007, at the request of Mr. Lynch. Mr. Lynch's attorney nor Mr. Loughrey appeared at the scheduled meeting.

7. On April 12, 2007 a second Subpoena Duces Tecum was served on Mr. Loughrey, via certified mail, for a document production date of April 17, 2007. Mr. Loughrey did not respond to the Subpoena Duces Tecum.

8. The documents listed in the attached Subpoena Duces Tecum (Exhibit A) are pertinent to EBSA's investigation of the 401(k) Plan. These documents are at the heart of EBSA's investigation.

9. As provided in 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.


ANIELA JANACHOWSKI
EBSA Investigator